

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

**ODESSA M. GODFREY,**

**Plaintiff and Counter-  
Defendant.**

**Civil Action No. 5:17-cv-00343**

**v.**

**TRANSAMERICA PREMIER LIFE  
INSURANCE COMPANY,**

**Defendant and  
Counter-Plaintiff.**

**NOTICE OF REMOVAL**

1. The Defendant, Transamerica Premier Life Insurance Company, an Iowa corporation, removes this civil action from state court to federal court.

2. The above-styled action was commenced in the Circuit Court of Greenbrier County, West Virginia, by the plaintiff, Odessa M. Godfrey, a resident of Greenbrier County, West Virginia. [Exhibit A]

3. The Complaint, which was duly filed in the Office of the Clerk of said Court, was accepted by the Secretary of State of West Virginia on behalf of the Defendant on December 8, 2016. [Exhibit B]

4. Pursuant to 28 U.S.C. §1446(a), a copy of the docket sheet and all process, pleadings, and orders served is attached as Exhibit C.

5. Pursuant to 28 U.S.C. §1446(b), this Notice is filed within thirty (30) days after receipt by Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.

**LEGAL ANALYSIS**

6. The United States District Court for the Southern District of West Virginia has original jurisdiction to adjudicate this action by reason of 28 U.S.C. § 1332(a), inasmuch as the amount in controversy exceeds the \$75,000 jurisdictional threshold amount, exclusive of interest and costs.

7. In her Complaint, Plaintiff seeks compensatory damages, punitive damages, and attorney fees for her claims of breach of contract and statutory bad faith arising from Defendant's rescission of her life insurance policy and the return of her premiums.

8. Although the life insurance policy has a face value of \$25,000, West Virginia's punitive damages statute permits an award of "four times the amount of compensatory damages or \$500,000, whichever is greater," W. Va. Code § 55-7-9(c), which would total \$125,000 if a full award of punitive damages was assessed, and may be considered in determining the existence of the jurisdictional threshold, see Bryant v. Wal-Mart Stores East, Inc., 117 F. Supp. 2d 555 (S.D. W. Va. 2000); Hicks v. Herbert, 122 F. Supp. 2d 699 (S.D. W. Va. 2000).

9. Likewise, the potential award of attorney fees may be considered in determining the existence of the jurisdictional threshold. See Caufield v. EMC Mortgage Corporation, 803 F. Supp. 2d 519 (S.D. W. Va. 2011).

10. The United States District Court for the Southern District of West Virginia has original jurisdiction to adjudicate this action by reason of 28 U.S.C. § 1332(a)(1) and (c)(1), inasmuch as Plaintiff is a resident of West Virginia and Defendant is a corporation organized and existing under the laws of a state other than West Virginia with principal places of business in a state other than West Virginia.

WHEREFORE, Defendant, Transamerica Premier Life Insurance Company, an Iowa corporation, by counsel, respectfully requests that this Court assume full jurisdiction of this action.

**TRANSAMERICA PREMIER LIFE  
INSURANCE COMPANY**

By Counsel

/s/ Ancil G. Ramey  
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**CERTIFICATE OF SERVICE**

I hereby certify that I on January 9, 2017, caused to be served the foregoing NOTICE OF REMOVAL by having placed in the United States mail a true copy thereof addressed as follows:

Thomas H. Peyton, Esq.  
Peyton Law Firm, PLLC  
P.O. Box 216  
Nitro, WV 25143  
*Counsel for Plaintiff*

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/s/ Ancil G. Ramey  
Ancil G. Ramey, Esq.  
WV Bar No. 3013